

CITY OF MUSKEGON

CITY COMMISSION MEETING

JANUARY 25, 2005

CITY COMMISSION CHAMBERS @ 5:30 P.M.

MINUTES

The Regular Commission Meeting of the City of Muskegon was held at City Hall, 933 Terrace Street, Muskegon, Michigan at 5:30 p.m., Tuesday, January 25, 2005.

Mayor Warmington opened the meeting with a prayer from Pastor Sarah Johnson of the Word of Truth Outreach after which the Commission and public recited the Pledge of Allegiance to the Flag.

ROLL CALL FOR THE REGULAR COMMISSION MEETING:

Present: Mayor Stephen Warmington, Vice Mayor Bill Larson, Commissioner Chris Carter, Kevin Davis, Stephen Gawron, Clara Shepherd, and Lawrence Spataro, City Manager Bryon Mazade, City Attorney John Schrier, and City Clerk Gail Kunding.

2005-07 INTRODUCTIONS/PRESENTATION:

A. National Night Out. POLICE

Denny Powers explained what National Night Out is, thanked Consumers Energy for their help, and presented certificates to the Neighborhood Associations and Consumers Energy.

2005-08 CONSENT AGENDA:

A. Approval of Minutes. CITY CLERK

SUMMARY OF REQUEST: To approve the minutes of the Community Relations Committee that was held on Monday, January 3, 2005; the Commission Worksession that was held on Monday, January 10, 2005; and the Regular Commission Meeting that was held on Tuesday, January 11, 2005.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval of the minutes.

B. Contract for Walton Street Project Excavation. COMMUNITY & NEIGHBORHOOD SERVICES

SUMMARY OF REQUEST: To approve Community and Neighborhood Services to execute a contract with Watts Trucking and Excavating, 1872 Austin, Muskegon.

Watts has the lowest bid, which was \$13,500.

The CNS Department received three other bids from Accurate Excavators, 4040 Central Rd., Muskegon - \$17,950; Eastside Excavators, 5555 Miller, Muskegon - \$30,000; and McCormick Sand Inc., 995 S. 162nd, Shelby - \$35,000.

FINANCIAL IMPACT: The funding will be allocated from the City's 2003 HOME entitlement.

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the request.

COMMITTEE RECOMMENDATION: The Land Reutilization Committee and the City Commission approved the Walton Street project.

C. FIRST READING-Zoning Ordinance Amendment for Outdoor Lighting.

PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 2331 of Article XXIII (General Provisions) to amend the Outdoor Lighting in all districts language regarding street lighting.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to amend language regarding street lighting.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their 1/11 meeting. B. Mazade, P. Sartorius, T. Johnson, T. Michalski, J. Aslakson, and L. Spataro voted in favor of the change. S. Warmington, B. Smith and T. Harryman were absent.

D. FIRST READING-Zoning Ordinance Amendment to Require the Same Front Setback for a Major Street as a Collector Street.

PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: Request to amend Section 404, Article IV (R-1 Single Family Residential); Section 603, Article VI (RT Two Family Residential); Section 703, Article VII, (RM-1 Low Density Multiple-Family Residential); Section 803, Article VIII, (RM-2 Medium Density Multiple-Family Residential); Sections 903 & 907, Article IX (RM-3 High Density Multiple-Family Residential & MC Medical Care Districts); Section 1003, Article X, (B-1 Limited Business); Section 1103, Article XI, (B-2 Convenience and Comparison Business); Section 1203, Article XII, (B-3 Central Business); Sections 1303 & 1308, Article XIII, (B-4 General Business & B-5 Central Governmental Service); Section 1403, Article XIV, (I-1 Light Industrial); Section 1503 & 1507, Article XV, (I-2 General Industrial & WI-PUD Waterfront Industrial Planned Unit Development); Section 1603, Article XVI (OSC Open Space Conservation); Section 1703, Article XVII, (OSR Open Space Recreation); Section 1803, Article XVIII, (LR Lakefront Recreation); Section 1903, Article XIX (WM Waterfront Marine); Section 2003, Article XX, (H Heritage), to amend the front setback requirement for a major street to be the same as a collector street, to

match Table I.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Staff recommends amendment of the Zoning Ordinance to amend the front setback requirement for a major street to be the same as a collector street, to match Table I.

COMMITTEE RECOMMENDATION: The Planning Commission recommended approval of the request at their 1/11 meeting. B. Mazade, P. Sartorius, T. Johnson, T. Michalski, J. Aslakson, and L. Spataro voted in favor of the request. S. Warmington, B. Smith and T. Harryman were absent.

Motion by Commissioner Carter, second by Vice Mayor Larson to approve the Consent Agenda as submitted.

ROLL VOTE: Ayes: Carter, Davis, Gawron, Larson, Shepherd, Spataro, and Warmington

Nays: None

MOTION PASSES

2005-09 PUBLIC HEARINGS:

A. Create a Special Assessment District for Southern Ave., Sixth to Seaway.

ENGINEERING

SUMMARY OF REQUEST: To hold a public hearing on the proposed special assessment for Southern Avenue, Sixth Street to Seaway Drive, and to create the special assessment district and appoint two City Commissioners to the Board of Assessors if it is determined to proceed with the project.

FINANCIAL IMPACT: None at this time.

BUDGET ACTION REQUIRED: None at this time.

STAFF RECOMMENDATION: To create the special assessment district and assign two City Commissioners to the Board of Assessors by adopting the resolution.

The Public Hearing opened at 5:43 p.m. to hear and consider any comments from the public. Comments in favor of the project were heard from: Robert Kendall, 315 W. Southern Avenue; and Mary Jo MCCann, 461 W. Webster, Representing Nelson Neighborhood Association. Ed Simmons, 973 W. Forest also commented.

Motion by Commissioner Davis, second by Commissioner Carter to close the Public Hearing at 5:49 p.m. and create the special assessment district for Southern Avenue, Sixth to Seaway.

ROLL VOTE: Ayes: Davis, Gawron, Larson, Shepherd, Spataro, Warmington, and Carter

Nays: None

MOTION PASSES

2005-10 NEW BUSINESS:

A. Agreement with Muskegon Public Schools for Election Services. CITY CLERK

SUMMARY OF REQUEST: To approve the Agreement with Muskegon Public Schools for Elections Services provided for all District School Elections. Under the new Election Consolidation legislation schools are no longer legally able to conduct their own elections. All duties are turned over to an Election Coordinating Committee made up of the clerks from communities in the School District, the County Clerk and the School District. One individual is selected as the Election Coordinator and since we have the largest number of residents in the district, we will be the Coordinator. This really is what we have been doing over the past 10 years that I have been Clerk in Muskegon. So it is business as usual regarding school elections except for some specifics in the law that requires a signed agreement by all members of the District Coordinating Committee. We will be reimbursed for all actual costs for the Elections. Both the City Attorney and the School District Attorney have reviewed the agreement and approved it as written.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: Approval

COMMITTEE RECOMMENDATION: Election Coordinating Committee recommends approval.

Motion by Commissioner Spataro, second by Commissioner Shepherd to approve the agreement and authorize the Clerk to sign the agreement.

ROLL VOTE: Ayes: Gawron, Larson, Shepherd, Spataro, Warmington, Carter, and Davis

Nays: None

MOTION PASSES

B. Taxicab License – Great Lakes Shuttle, 1087 W. Laketon. CITY CLERK

SUMMARY OF REQUEST: Stephanie Tilford of Great Lakes Shuttle, whose office is located at 1087 W. Laketon, is requesting approval of a license to operate five taxicabs.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve this request contingent upon approval from the Police Department, Inspections, and applicant obtaining a special use permit for the location.

Motion by Vice Mayor Larson, second by Commissioner Spataro to approve the license contingent upon approval from the Police Department, Inspections, and applicant obtaining a Special Use Permit.

ROLL VOTE: Ayes: Larson, Shepherd, Spataro, Warmington, Carter, Davis, and Gawron

Nays: None

MOTION PASSES

C. Water Plant Improvements Change Order. WATER FILTRATION

SUMMARY OF REQUEST: To approve change order #6 of the Water Filtration Plant Improvements Project. A portion of this change order was authorized as "emergency" within the City's purchasing plan in order to keep the construction project on schedule. The remainder of the items are similarly critical but do not affect the project schedule.

FINANCIAL IMPACT: The total cost of change order #6 is \$159,561.

BUDGET ACTION REQUIRED: None at this time. The change order cost will be applied to the total cost of the Improvements Project as funded by the Drinking Water Revolving Loan Fund.

STAFF RECOMMENDATION: Staff recommends approval of the items authorized by the "emergency" procedure and the additional items as indicated in change order #6.

Motion by Commissioner Spataro, second by Commissioner Gawron to approve the change order.

ROLL VOTE: Ayes: Shepherd, Spataro, Warmington, Carter, Davis, Gawron, and Larson

Nays: None

MOTION PASSES

D. Extending the Deadline for Taking Action on Proposed Mall Historic District. PLANNING & ECONOMIC DEVELOPMENT

SUMMARY OF REQUEST: To extend the deadline for taking action on the proposed Mall Historic District. A public hearing was held on January 21, 2004 but no action was taken. This public hearing triggered an automatic one-year deadline for taking action. Because that deadline has expired, Staff is now requesting that the City Commission extend the deadline for one more year.

FINANCIAL IMPACT: None

BUDGET ACTION REQUIRED: None

STAFF RECOMMENDATION: To approve the resolution extending the time period to take action on whether or not to designate the Mall buildings as a historic district.

Motion by Commissioner Spataro, second by Vice Mayor Larson to approve the resolution extending the deadline for one more year.

ROLL VOTE: Ayes: Spataro, Warmington, Carter, Davis, Gawron, Larson, and Shepherd

Nays: None

MOTION PASSES

E. Concurrence with the Housing Board of Appeals Notice and Order to Demolish the Structures: PUBLIC SAFETY

SUMMARY OF REQUEST: This is to request that the City Commission concur with the findings of the Housing Board of Appeals that the structures are unsafe, substandard, a public nuisance and that they be demolished within thirty (30) days. It is further requested that administration be directed to obtain bids for the demolition of the structures and that the Mayor and City Clerk be authorized and directed to execute a contract for demolition with the lowest responsible bidder.

1. 1263 W. Larch – Area 12

CASE # AND PROJECT ADDRESS: #EN-030173, 1263 W. Larch

LOCATION AND OWNERSHIP: This structure is located on W. Larch between Ruddiman and McGraft. It is owned by Deutsche Bank Trust in Texas and is currently in foreclosure. As of 12/03 this structure is owned by Martin/Jane Engle.

STAFF CORRESPONDENCE: A dangerous building inspection was conducted on 11/20/03. A notice and order to repair was issued 12/3/03. On 1/8/04 the HBA declared the structure substandard and dangerous. The case returned to the HBA 12/02/04 to allow new owners time to respond, no one was present and was declared substandard and dangerous.

OWNER CONTACT: On 1/13/04 a contact for the bank called the Inspection office and stated the home is in foreclosure and they cannot do anything until the redemption period is up, which is 6 months. He was faxed all copies of previous notices. Mr. Engle contacted the Inspection Department in December 2004 stating he no longer owned the property he stated the property was taken by the bank. He gave contact numbers for Saxon Mortgage formerly Deutsche Bank. The Inspection Department contacted Saxon Mortgage who first said the property was sold but the Inspection Department checked and no deed was registered with said new owner. The title office was contacted that handled the sale and they reported that the sale was cancelled. Saxon Mortgage was contacted again who forwarded the Inspection Department to their foreclosure attorney's office. The office of the foreclosure attorney Orlands Assoc., reported that the foreclosure was never completed and that the property was still owned by Mr. Engle. A memo was sent to Mr. Engle and Saxon Mortgage stating these findings. There has been no owner contact since this time.

FINANCIAL IMPACT: General Funds

BUDGET ACTION REQUIRED: None

STATE EQUALIZED VALUE: \$18,100.

ESTIMATED COST TO REPAIR: \$8,000 plus the cost of interior repairs.

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals

decision to demolish.

2. 1856 Continental

CASE # AND PROJECT ADDRESS: # EN-040047, 1856 Continental

LOCATION AND OWNERSHIP: This structure is located on Continental between E. Holbrook Road and E. Laketon Avenue and is owned by Phyllis Passenier.

STAFF CORRESPONDENCE: A dangerous building inspection was conducted 4/19/04 also an interior inspection was conducted 6/10/04. Mr. and Mrs. Passenier were present for the HBA meeting. They stated they are in the process of getting estimates for the repairs now that the insurance company declared the house fixable. Bob Grabinski inquired on the construction that has been done to the home without permits and Mr. Passenier stated the house was sold on a land contract and the buyers did the work. A building permit for siding was issued 6/12/04. The permit expired 12/9/04.

OWNER CONTACT: There has been no owner contact or inspections scheduled.

FINANCIAL IMPACT: General Fund

BUDGET ACTION REQUIRED: None

STATE EQUALIZED VALUE: \$12,949

ESTIMATED COST TO REPAIR: \$30,000

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

3. 341 Bauer – Area 11

CASE # AND PROJECT ADDRESS: # EN-040041, 341 Bauer

LOCATION AND OWNERSHIP: This structure is located on Bauer between Spring Street and Pine Street and is owned by Muskegon Monument & Stone.

STAFF CORRESPONDENCE: A dangerous building inspection was conducted on 4/30/04. No one was present to represent this case at the HBA 7/01/04 meeting. Henry Faltinowski stated he spoke with John Allen at about 4:30 and he said he would be at this meeting. A building permit to demolish was issued 7/16/04. The site has not been cleared of demolition debris.

OWNER CONTACT: There has been no owner contact.

FINANCIAL IMPACT: General Funds

BUDGET ACTION REQUIRED: None

STATE EQUALIZED VALUE: \$1,696

ESTIMATED COST TO REPAIR: Building not salvageable

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

4. 61 Ottawa

CASE # AND PROJECT ADDRESS: # EN-040059, 61 Ottawa

LOCATION AND OWNERSHIP: This structure is located on Ottawa between Bayou and Marquette and is owned by Abonmarche Developers, P.O. Box 1088, Benton Harbor, MI 49023.

STAFF CORRESPONDENCE: A dangerous building inspection was conducted 5/25/04. It is a commercial building that has been vacant for some time.

OWNER CONTACT: A fax was received the day of the HBA meeting asking for 6 months to allow them time to sell the structure. There has been no owner contact since that time.

FINANCIAL IMPACT: General Funds

BUDGET ACTION REQUIRED: None

STATE EQUALIZED VALUE: \$99,900

ESTIMATED COST TO REPAIR: \$30,000

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

5. 1309 Sixth – Area 10

CASE # AND PROJECT ADDRESS: #EN-040067, 1309 Sixth Street.

LOCATION AND OWNERSHIP: This structure is located on Sixth Street between Monroe Street and Merrill Street and is owned by Yvette Ikens.

STAFF CORRESPONDENCE: This house was inspected by the trade inspectors 3/23/04 after the housing inspector realized it had never been removed from the dangerous building list since December 2002. At the time of the inspection, the house was owned by Brian VanFarowe who owns other rental properties in Muskegon. There has been no contact from him or his property manager, Alex Fortenberry, since the inspection and in July the house was open. Upon contacting Mr. Fortenberry about the missing door, it was discovered that Yvette Ikens had purchased the property on a Land Contract. The city had the structure boarded 7/9/04.

OWNER CONTACT: There has been no owner contact.

FINANCIAL IMPACT: CDBG

BUDGET ACTION REQUIRED: None

STATE EQUALIZED VALUE: \$14,600

ESTIMATED COST TO REPAIR: \$25,000

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

6. 235 W. Forest

CASE # AND PROJECT ADDRESS: #EN-040034, 235 W. Forest

LOCATION AND OWNERSHIP: This structure is located on Forest Street between Fifth Street and Sixth Street and is owned by Louis Pimpleton.

STAFF CORRESPONDENCE: A dangerous building inspection was conducted 3/12/04. No one was present to represent this case at the HBA meeting. It was found open and vandalized by officers in March.

OWNER CONTACT: There has been no owner contact.

FINANCIAL IMPACT: CDBG

BUDGET ACTION REQUIRED: None

STATE EQUALIZED VALUE: \$18,500

ESTIMATED COST TO REPAIR: \$10,000 exterior only.

STAFF RECOMMENDATION: To concur with the Housing Board of Appeals decision to demolish.

Motion by Vice Mayor Larson, second by Commissioner Shepherd to concur with the Housing Board of Appeals decision to demolish all six structures.

ROLL VOTE: Ayes: Warmington, Carter, Gawron, Larson, Shepherd, and Spataro

Nays: Davis

MOTION PASSES

F. Appointment of Brickley DeLong as the City's Independent Auditor.

FINANCE

Motion by Vice Mayor Larson, second by Commissioner Spataro to appoint Brickley DeLong as the City's auditor.

ROLL VOTE: Ayes: Carter, Davis, Gawron, Larson, Shepherd, Spataro, and Warmington

Nays: None

MOTION PASSES

PUBLIC PARTICIPATION: Various comments were heard from the public.

ADJOURNMENT: The City Commission Meeting adjourned at 6:33 p.m.

Respectfully submitted,

Gail A. Kunding, MMC
City Clerk.